



## NATURAL RESOURCES BOARD

Dewey Building  
National Life Drive  
Montpelier, VT 05620-3201

---

### NATURAL RESOURCES BOARD MEETING TUESDAY, MAY 12, 2015

#### MINUTES

#### PRESENT

Jon Groveman, Esq., Chair  
Dominic Cloud, Member  
William Boyd Davies, Esq., Member  
Martha (Marty) Illick, Member  
Don Sargent, Member

#### ABSENT

Melanie Kehne, General Counsel

#### STAFF

Kimberley Lashua, Administration Manager  
Lou Borie, Executive Director  
Gregory Boulbol, Associate General Counsel  
Peter Gill, Associate General Counsel  
Aaron Brondyke, Permit Compliance Officer  
Donna Seckington, Administrative Secretary

The Vermont Natural Resources Board convened at approximately 9:08 a.m. on Tuesday, May 12, 2015 at the Dewey Building Conference Room, National Life Drive, Montpelier, Vermont, Chair Jon M. Groveman presiding.

#### Public Meeting

##### **1. Approval of Minutes**

Bill Davies moved to approve the minutes of the March 10, 2015 meeting as printed. The motion was seconded by Marty Illick and approved by the Board by a 3-0-2 vote. Dominic Cloud, Member and Don Sargent, Member abstained.

##### **2. Legislative Update**

Chair Groveman provided the Board with an update on S.138. S.138 requires that the NRB revise its existing 9L procedure and that the NRB work with the



Agency of Commerce and Community Development (ACCD) and the Agency of Natural Resources (ANR) to develop guidance on implementing 9L. Over the summer, the NRB will work with ACCD and ANR Planners to do education and outreach on Criterion 9L. Chair Groveman is working on revising the NRB 9L procedure and developing guidance with a subcommittee of District Coordinators, is collaborating on these efforts with ACCD and ANR on the procedure and guidance. The Board will get a progress report later this summer.

Chair Groveman and Dominic Cloud provided an update on H.269, a bill that addresses the removal of soil with low levels of contamination from designated centers. If the bill passes, it will add the removal of these soils under a clean-up plan approved by ANR to 10 VSA § 6001 (3) (D) (vi), which exempts various clean-up activities approved by ANR from the definition of development in Act 250.

Chair Groveman discussed Department of Forest and Parks Commissioner Mike Snyder's report of forest fragmentation that was submitted to the Vermont Legislature. The report includes a section on potential actions that could be taken to address the issue the concern that development if fragmentation intact forests, including potential changes to Act 250. There may be committee established to look further into this issue this summer and fall. If a committee is established, Act 250 will be represented. Commissioner Snyder will be making a presentation about the issue of forest fragmentation as part of the Spring Commission Training sessions.

### **3. Criterion 9F**

Peter Gill briefly explained the 2015 Commercial and Residential Building Energy Standards effective March 1, 2015. The software necessary to verify compliance has *not* been updated to reflect the new versions of the RBES and CBES and is not available to the regulated community. Accordingly, there appears to be the need for some guidance to assist applicants to understand what is necessary to comply with criterion 9F during this interim period.

Chair Groveman requested that this topic be up for discussion at the next NRB meeting on 6/9/15.

### **4. Discussion of Litigation and Attorney – Client and Work Product Memoranda (Executive Session)**

Bill Davies made a motion to go into executive session in accordance with 1 V.S.A. Section 313(a)(1) and (6) for discussion of attorney-client privileged documents and civil actions by the State where premature public knowledge

would clearly place the Board at a substantial disadvantage. Dominic Cloud seconded the motion, which was approved 5-0.

The Board went into executive session at approximately 10:16 a.m. The Board invited into executive session its legal staff, Executive Director, Permit Compliance Officer, Business Administration, Administrative Secretary, Clancy DeSmet, Coordinator, District 5 and Stephanie Gile, Assistant Coordinator, Districts 2 & 3.

## **5. Action on Pending Appeals**

The Board came out of executive session at approximately 10:45 a.m. and took action as follows:

**RE: Michel Gingras, LUP 6F0501-1 Altered / Corrected,  
Docket No. 22-3-15 Vtec**

**RE: Mountainside Condominium Association, LUP 5W0504-6,  
Docket No. 35-4-15 Vtec**

Bill Davies made the motion to ratify the Chair's decision to participate in both appeals. Marty Illick seconded this motion, and it was approved unanimously.

**RE: Saxon Partners, LLC, Docket Nos. 8-1-15 & 10-1-15 and 43-4-15  
Vtec**

Bill Davies made the motion to ratify the Chair's decision to participate in the appeal. Marty Illick seconded this motion, and it was approved unanimously.

## **6. Other Business – NRB Proposed Rules**

Chair Groveman led a discussion of comments received on the rules proposed by the NRB last January. Clancy DeSmet, Coordinator, District 5 and Stephanie Gile, Assistant Coordinator, Districts 2 & 3 participated in the discussion to represent concerns that the District Coordinators as a group have about the proposed rules. The Board and staff discussed several of the rules related to jurisdiction. Board member Davies suggested that a memorandum be prepared identifying concerns about the proposed rules, and identifying areas of the proposed rules where there is agreement. Chair Groveman will prepare such a memorandum for the Board to discuss at its next meeting. Chair Groveman requested that the District Coordinators prepare a memorandum that sets forth their concerns about the proposed rules.

**7. Office and Budget Update – Executive Session to discuss personnel matters related to budget reductions**

Bill Davies made a motion to go into executive session in accordance with 1 V.S.A. Section 313(a)(1) for discussion of privileged documents and civil actions by the State where premature public knowledge would clearly place the Board at a substantial disadvantage. Marty Illick seconded the motion, which was approved 5-0. Specifically the Board discussed the NRB budget, the need for budget reductions and the impact on personnel in the Executive Session. The Board went into executive session at approximately 11:50 a.m.

The Board came out of executive session at approximately 12:00 p.m.

**8. Adjournment**

At approximately 12:01 p.m., Marty made a motion to adjourn, seconded by Dominic Cloud, and unanimously approved by the Board.

Respectfully submitted,

\_\_\_\_\_  
Jon M. Groveman., Chair

Approved by the Board at its \_\_\_\_\_ meeting.